IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3918 OF 1990

1. Bhalchandra Vithoba Barne)
2. Dashrath Balwant Barne)
3. Kaluram Maruti Dange)
All residents of Thergaon,)
Taluka Mulshi, Dist. Pune.) .. Petitioners

Versus

1. The Special Land Acquisition Officer)
No.24, Pune, Collectorate Compound,)
Pune.)

2. The Collector, Pune.)

3. The Commissioner, Pune Division,)
Pune.)

4. The Pimpri Chinchwad New Township)
Development Authority, Nigadi, Pune.)

5. The State of Maharashtra)

6. The Tehsildar, Taluka Mulshi,)
Dist. Pune.) .. Respondents

None for the petitioners.

Mr.V.A. Sonpal, A.G.P. for the respondents no.1 to 3, 5 and 6.

Mr.V.D. Patil for the respondent no.4.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 20TH SEPTEMBER 2007

ORAL JUDGMENT: (Per D.G. Karnik, J.)

1. Heard learned counsel for the respondents. None present for the petitioners.

2. By this petition, the petitioners challenge the acquisition of their land and the award dated 23rd September 1986 passed by the respondent no.1 as illegal. The land in question was acquired for Pimpri Chinchwad New Township Development Authority (respondent no.4). A notification under section 6 of the Land Acquisition Act was issued and the award was passed on 23rd September 1986. The petitioners have challenged the award on the following grounds:-

(i) That the award under section 11 of the Land Acquisition Act was not made within a period of two years of the commencement of the amending Act which came into force on 24th September 1984. Therefore, making of the award is invalid.

(ii) The award was not made actually on 23rd September 1986 but was made subsequently and the award has been ante dated.

(iii) Notice of the making of the award was not given to the petitioners within two years after the commencement of the amending Act and, therefore, also the award is invalid.

3. Record shows that the award was made on 23rd September 1986 and the award is dated as such. Obviously, it is made within two years of 24th September 1984 cannot be said to be made beyond the period of limitation prescribed for making of an award. It is the contention of the petitioners that the award was made subsequently and it is ante dated. However, no material has been brought on record to show that the award is ante dated. Therefore, the contention that the award was not made on 23rd September 1986 but is ante dated has to be rejected.

4. As regards the contention that intimation of making of the award required to be given within a period of two years, it is clear from the judgment of the Supreme Court in the case of **Kalyappan v. State of Kerala, reported in AIR 1989 SC 239** as also the scheme of sections 9, 10, 11 and 11-A of the Land Acquisition Act that what is required to be done within the prescribed period of two years is passing of the award. Communication of the award has to be made under sub-section (2) of section 12 of the Land Acquisition Act and there is no limitation provided for communication of the award to the persons who were not present personally when the award was made. In view of the decision of the Supreme Court, it cannot be said that notice of making of the award is also required to

be issued within a period of two years.

5. We notice that the facts in this petition are similar to Writ Petition No.440 of 1987 and other connected matters. In fact, in para 3 of the petition, the petitioners themselves have stated that the facts are exactly similar to the facts in those writ petitions. The said writ petitions were dismissed by a Division Bench of this Court by its order dated 3rd February 2004, to which one of us (D.G. Karnik, J.) was a party. The petitioners are absent when the petition is called probably because of the earlier decision in identical writ petitions. There is no merit in this petition which deserves to be dismissed and is accordingly dismissed. Rule is discharged with no order as to costs.

(D.G. KARNIK, J.) (S.B. MHASE, J.)